

**LAKE COUNTY BOARD of ADJUSTMENT**  
**Sept. 12, 2018**  
**Lake County Courthouse Commissioners Office (Rm 211)**  
**Meeting Minutes**

**MEMBERS PRESENT:** Don Patterson, Frank Mutch, Steve Rosso, Merle Parise, Mary Jensen

**STAFF PRESENT:** Jacob Feistner, Rob Edington, Clint Evenson, Tiffani Murphy, Lita Fonda; Wally Congdon

Frank Mutch called the meeting to order at 3:31 pm

**PAPPAS VARIANCE—CITY COUNTY (3:31 pm)**

Clint Evenson presented the staff report. (See attachments to minutes in the Sept. 2018 meeting file for staff report.) He noted that an adjacent neighbor called with concerns about current surface runoff and whether this would get worse in the future. He pointed to the comment in favor of the proposal that was received after the staff report deadline and has been handed out to the Board members. (See attachments to minutes in the Sept. 2018 meeting file for handouts.) He referred to this handout as attachment #7. Regarding the concern of the Ponderilla Hills Water & Sewer District, Frank asked if the requirement to provide access to the utility, if they covered those up, should be part of the conditions. Clint thought that could be reasonable. He clarified that Dana Leifson was the contractor and was present.

Steve asked about the wording in the maximum lot coverage chart shown on pg. 7 of the staff report and compared it to the wording in the chart shown on pg. 6. Clint interpreted that if the slope was under the 8%, then it wasn't a concern. He thought they could use the 20%. Jacob explained that in this area, the percentages would be lower because the lots were much larger, if they were going to go by the character of the neighborhood. He estimated over 500 lots in this district, with an average lot size of about 7 acres. This lot was about an acre in size so it was much smaller. A number of these smaller lots were along the lake, so staff were working on an amendment to raise the coverage amount.

Frank, pg. 10, item 4, next-to-last sentence: Add 'allowed' after 'surfaces'.

*Public comment opened:* None offered. *Public comment closed.*

Agent Dana Leifson mentioned he addressed the concern of the neighbor about the runoff. He shot grades and showed the neighbor where the runoff would be. The neighbor concluded that water would not run onto his place. Steve asked about the current problem, which Dana described. The neighbor's driveway across the street was uphill but the house was probably 4 feet lower than the road so the neighbor was concerned about the water. They hadn't had contact from the south neighbor, where the new paved circular driveway was done, close to the property line. The area in the center [of the drive] took a lot of the water. If you looked to the bottom right on the map, a large natural swale there would hold runoff. In attachment 6, the cargo trailers belonged to former owners and these were gone. Regarding the Ponderilla Hills Lake County Water & Sewer District concern about reducing district cost if they had to replace the

water line, the Pappas would be willing to pay to remove the section to replace the water line or whatever, if something came up. He introduced George and Ann Pappas, who were in attendance. Steve concluded they could add a condition to the approval. Steve liked the 2<sup>nd</sup> paragraph in the district's letter, which he read. Some comment about covering the costs [would also be needed]. He asked if Clint could come up wording for a condition.

Steve, pg. 15, condition #3, 2<sup>nd</sup> line: Change 'amount' to 'measurement'.

Frank suggested wording for the condition just discussed about covering costs: 'The applicants agree to pay any extra costs for repairs to the water and sewer district lines under the concrete driveway.' Clint thought that worked.

**Motion made by Steve Rosso, and seconded by Don Patterson, to approve the variance with findings of fact and conditions and terms as modified. Motion carried, all in favor.**

**MC CULLOUGH CONDITIONAL USE—FINLEY POINT (3:54 pm)**

Tiffani Murphy presented the staff report. (See attachments to minutes in the Sept. 2018 meeting file for staff report.) She indicated that two additional comments had been submitted since the staff report had been done. (See attachments to minutes in the Sept. 2018 meeting file for public comment handouts.)

Frank disclosed that he knew the applicants although he did not feel there was a conflict of interest. Since 1980, the property had been mostly rented by the prior owners. Other businesses had been there which had been done by renters and were more intrusive.

John McCullough mentioned that he had a road permit from the county, signed by Gale Decker last week. That was resolved and that was the only variance that had been recommended by Tiffani.

In response to questions, John said the shop building was about 1,500 square feet. His wife used the other 300 square feet. He didn't see the potential for expansion to be large in that area or the shop. Steve pointed to the condition that the home occupation would not exceed 1,200 square feet. He wouldn't want John to have to come back in a few years later so asked about increasing this. Tiffani explained that the regulations limited a home occupation to 1,200 square feet of the building. Regarding outdoor storage, she looked at this as not performing the business but stashing those until they were picked up. She looked at the business as where he did his work. Jacob clarified for Steve that they didn't need to add 'not including outdoor storage area' to condition #10. The regulations addressed the appearance. If it still appeared to be residential and be of similar characteristic as the other properties, it was in line. Frank and Tiffani noted the new fence looked very nice.

Steve, pg. 11, #4.ii: Change 'project' to 'projected'.

Steve acknowledged the comment in a letter that it would be nice if the roads on Finley Point had a little more maintenance. Frank said this was a point of disagreement in the neighborhood. Some preferred potholes to speedbumps.

**Motion made by Frank Mutch, and seconded by Merle Parise, to approve the conditional use as stated on the application, subject to the terms and conditions. Motion carried, all in favor.**

**WEISENBERGER/ NELSON VARIANCE—FINLEY POINT (4:07 pm)**

Rob Edington noted that Terry Murphy and Jeff Gallatin were in attendance as agents for the applicants and presented the staff report. (See attachments to minutes in the Sept. 2018 meeting file for staff report.) He highlighted condition #5 on pg. 14, which addressed an easement for any extension over the property line.

Rob clarified for Frank that the comment letter was from the neighbor to the south. Steve checked if it was known whether that neighbor would be open to providing an easement. Rob's understanding was that this conversation might have taken place. Frank observed the neighbors went on to say they supported this variance. Jacob clarified that staff wanted something recorded.

Steve, pg. 12, item c, 3<sup>rd</sup> line: Change 'longs' to 'lots'.

Steve checked about item iv on pg. 13. Jacob thought it would work as written. Some discussion ensued.

Agent Terry Murphy said they'd decided to trim the eaves back so there wouldn't be an encroachment issue. They would reconfigure just enough to do so, and trim it off at the property line. He would resubmit. This was cleaner. Agent Jeff Gallatin answered Frank that it wouldn't be visible due to the amount of brush there. You couldn't see the garage from the south. Jeff relayed that the owner would rather clip the eaves off than push their luck with the neighbors. Frank noted item iv on pg. 13 wouldn't need change. Jacob suggested replacing condition #5 on pg. 14 with one that said, "Prior to a zoning conformance permit being issued, an updated site plan demonstrating the structure is contained within the property." Rob pointed out the condition covered both [scenarios] as written. Jeff suggested another option, if allowed, would be to do a new foundation for the whole thing and parallel the property line so the eaves weren't encroaching. The owners were open to this; it would cost them more. The foundation was currently footing, walls and slab.

Steve checked about a recent survey that changed the location of what people thought was the property line. Terry said the old steel pin he found would give them more room. They would go with the new survey. At the time the garage was built, probably everyone thought they were within their property line. This wasn't terribly uncommon. Steve thought there was some error in every survey and wanted to make sure the applicants were willing to accept that risk if building on the property line. Terry repeated his confidence in the recent survey. Steve observed the chunk of land to the north on the site plan. Terry explained that a lot of the open property was a good-sized drainfield. Frank commented on #9 (pg. 9) and possibly moving the garage north. It seemed like moving all that would be a significant impact.

*Public comment opened: None offered. Public comment closed.*

**Motion made by Frank Mutch, and seconded by Mary Jensen, to approve the variance subject to the findings of fact, terms and conditions. Motion carried, 4 in favor (Don Patterson, Frank Mutch, Merle Parise, Mary Jensen) and 1 opposed (Steve Rosso).**

**ROUSSEAU/SILVA VARIANCE—FINLEY POINT (4:30 pm)**

Clint Evenson noted the owners were here and presented the staff report. (See attachments to minutes in the Sept. 2018 meeting file for staff report.)

Frank disclosed that after the last approval for the property, Lise Rousseau called him to ask if he could discuss this setback issue. He contacted Jacob for direction, who said it was okay to return the call but not to make any commitments. He told her she needed to go with the Planning staff, according to their procedures. He had also said that hardship seemed to be the key issue although he didn't give opinions or commitments on that. Today he visited the property. Wally had told him that was okay. It seemed to be okay to go look and observe, and not make comments or commitments of any kind. Wally added that what Frank observed should be part of the record so he needed to tell that as part of the reason for the decision. A picture was worth a thousand words.

Steve indicated two places where this was described as an unnamed road. On pg. 14 in condition #4, it called it East Thurston. Clint clarified it was an unnamed road. East Thurston was a mistake.

Clint, pg. 14, condition #4, middle line: Change 'East Thurston Lane' to 'the unnamed county road'.

Frank outlined what he saw at the property. He measured the Finley Point Road width, which varied, as 22 feet wide for the pavement in front of his place and maybe an extra 3 feet on each side. It had a tremendous amount of motorized, pedestrian, bicycle and wildlife traffic. He measured 10 feet of graveled area on the unnamed road, with at least a foot of grass or weed per each side, for a total of 12 feet. From fence to fence, it was 25.5 feet although this varied. The road was barely passable, with a huge hole on the south end. People drove in the parking lot of the cherry packing plant when they used the road. As a resident, he observed it was handy for a shortcut or when a tree blew down.

Clint clarified that a zoning conformance application was submitted. The variance process was holding that up. A site plan hadn't been provided other than attachment 3. He had drawn a sketch when he visited the site. He showed it, explaining features. Lise supplied that the guest house and main house were about 10 feet apart. These were built in 1930 and 1932. Clint said his main concern was the distance between the property line and the house. Frank noted the applicants owned the property across the road.

Regarding previous agenda items, Frank clarified that he forgot to open and close some of the earlier ones for the public, but that no public were present to comment.

Frank asked for translation of the last sentence in the paragraph of Jay Garrick's letter (attachment 4). Wally described early history of the road, starting in 1907. The thought [in the letter] was if more right of way was needed, they still wouldn't have to condemn that building to widen the road. Jacob mentioned the staff question to which Jay was responding. There was some thought that this road could be another ingress and egress for Finley Point Road when something cut off the main access. The planners' thought was to make sure the Road Dept. didn't have concerns or plans to expand the road that the staff weren't aware of yet. Wally asked if a fire happened on Finley Point, what the best way to get trucks and firefighting equipment in would be. Because this right-of-way and eleven other ones were there, and this one had a road that a fire truck could go down now, even though it wasn't the perfect surface, it was there as a fire lane or emergency access. The point was to keep it but to make sure it wasn't so encumbered it couldn't be used. Frank could see where that could be a needed road. If the Board did consider approval, they might include a condition that the owners would agree that if there was conflict in the future, they would be willing to move it since it was a portable building.

Lise Rousseau read her written response to the staff report. (See attachments to minutes in the Sept. 2018 meeting file for the written response.) Her conclusion included a request to grant the variance, with 2 changes. She requested removal of the requirement in the conditions to waive the right to protest future development of the unnamed road, and removal of the requirement for a new septic permit since her approval process with the County sanitarian would cover that if needed. She thanked the board.

At Steve's request, Lise reiterated the hardship such that they needed the building in this particular location and couldn't place it elsewhere. The other possible location was being used for farming and grazing, which she described. If they put the building in front of the house, they had no view except the building. That would be on their leach field, which was immediately in front of their home to the north. The 3 acres on the other side [of the road] were all orchard. She confirmed for Steve that on the west side of the house, by the garage and shed, they drove farm equipment and had sheep, and that this was fenced for the sheep, and the fence went from the unnamed road, along the south side of the garage, around the garage, around the septic field and east to the road. The proposed kitchen area, cabin, house and garage were fenced from the rest of the property.

Lise reiterated if they took the building and rotated it 90 degrees, they'd have to move it far enough from the existing building so it wouldn't drain onto the existing building. It would still be within the 50 feet [of the road]. She and her husband held the opinion that where that 24-foot supposed right of way existed was unclear. It wasn't even the same distance between the fences from one end to the other, so maybe they were asking for a variance of 4 feet or maybe 9 feet. Steve noted rotating the building would save 5 feet. Lise confirmed they'd already acquired the building, which was sitting on a trailer. It had doors at either end but not on the sides. One of the doors would back up against a small deck on the guest house, which would then facilitate entrance into the rear of that building or out of that building and into a bathroom. Steve concluded if it was turned 90 degrees, they wouldn't have that same access. If it was rotated, could they still put the side of the building against the deck? Lise said no—snow would dump onto the building.

Steve explained that he asked the questions since the site plan didn't provide this information. He and Lise talked about trees. Steve mentioned that if the building were rotated, they'd have 5 more feet for the runoff to be on the ground rather than the deck. Lise reported that the wall length of the building was 18 feet and 1 inch. The end that they proposed to the east had a 4-foot overhang. The width of the building was 10 feet from wall to wall. [Inaudible] was 112 inches, which was 9 feet and 4 inches. The other end had maybe a 6-inch overhang, rather than the 6-foot mistakenly mentioned. Frank and Steve thought [the overhang at the ends] looked about the same in the photo. Lise clarified that they were not. The length of the roof was probably 24 feet. Steve mentioned that setbacks were measured to the drip line. Lise specified that this was included in the 41 feet and 4 inches. Steve said if they turned the building 90 degrees, they would almost be out of the setback. It did complicate the walkway as there would be more work to do to build a walkway to the backdoor.

Lise said that the building did have windows. With the proposed orientation, she could look out the windows at a view rather than at nothing. That wasn't relevant to [the Board] but it was relevant to her. Steve thought she could change the window on the end. Lise said it was hard to hear this discussion when they'd [previously in the meeting] talked about people putting garages on property lines. It didn't seem equitable. Steve replied these [items] were taken individually. Lise understood. She said it was well established that this road had no future nor was its ownership clear. No one could show her documentation. Steve thought Wally had found some.

Steve listed some options [for a lesser variance or to eliminate the need for a variance]. They could rotate the building 90 degrees. The zoning district could be amended to change the 50-foot setback to 20 feet. They could go through the road abandonment process so this was no longer a county road. Some kind of legal agreement with the county might be required to allow public use of a private road in emergencies or so forth. Lise replied they would be happy to do that.

Don brought up that there were some hardships. It was a hardship in rotating the building in how it went and what they had to redo to do that. Steve said with the description they'd had in lieu of a more detailed site plan, he thought there were options that didn't require a variance.

Wally said part of the hardship they saw in places on the lake was that the lot was 50 feet wide and people laid it out a certain way and built before the zoning. This led to the hardship of what do you do with it now. The problem with this particular farm was a similar circumstance: how things were laid out and built before it was zoned. They wanted to fit in a value-in-agriculture process. The other part was hardship was not just geography. It could be a hardship of the applicant. Not being able to look out the window might be a personal hardship. The hardship on the neighbors was that if this happened to be the best venue for this building, oriented this way, [was it] in other people's view shed. Both kind of flew in the face of the purpose of the zoning in the first place: conserve open space, preserve the view, stop congestion in the streets and so forth. The question was if a variance was of the characteristic that allowed or justified ancillary utilization or value-added agriculture to occur. He didn't know if it was enough to say it was inconvenient for the applicant to not look at the lake or not look at the wall. The other issue of the snow load [inaudible] etcetera was a problem.

Wally didn't like hearing that they didn't like having to do a septic permit change. As the use increased, the volume increased. One condition they might have if the variance said to update the permit if needed. If that was what it took, the thing was compliant, her hardship was addressed, the neighbors' hardship was addressed and you accomplished part of the purpose of right to farm, the growth policy and the zoning, to preserve and encourage agriculture. It was the Board's call about what was actually enough that justifies it. He personally didn't have much problem expanding the old definition that a variance had to be the physical geography of the site. Things had changed and adjusted. How they could mitigate was better than it used to be.

Wally talked about the commissioners, this project and the road. Dave Stipe's concern was that the right [for the road] was there for the long term. If they did end up building it for even a fire lane or emergency ingress or egress, this structure or variance did not create a problem for the county to accomplish use of that property right. If it did, that would be a reason to not do a variance because that person's property right would infringe on the public's property right regarding the road. [This proposal] also didn't dump snow on the road and so forth. At the same time, they wanted to encourage the character of the neighborhoods, agriculture, orchards and value-added products, and preserve what made the lake what it was. Adjusting it this way was sometimes what they needed to do. It was the custom, culture, history and heritage.

Frank thought they could consider the historical, existing and prior well-established land use. The history and established pattern imposed a hardship which was just as limiting as geographical features. He didn't think the road would be abandoned; it was a focus for the county for good reason. The boundaries, established use and rights-of-way that might exist based on history were uncertain. He would err on the side of the [road-]adjacent property owners. They were trying to accommodate a road whose exact location was unknown.

Wally said the other part of the equation was whether it was enough of a hardship. In the case of this kitchen, if it made the orchard function as an agricultural unit, and not doing this meant it was too hard and the owners quit agriculture, was that hardship enough? He didn't see stream flow issues, water quality issues or the other myriad of things. This was a totally different way to look at this.

Steve responded that both Wally and Frank had valid arguments, which were used to justify the conditional use permit that the Board previously approved. There was no reason to say Lise couldn't have a kitchen, and he wasn't saying that. What he hadn't heard from either Wally or Frank was why they couldn't turn the building 90 degrees.

Frank thought the Board put too much weight by precedent in the Planning Board etcetera on aesthetics, intangible values, view sheds and touchy feely things. These folks were putting the same kinds of values on what they wanted to do—a high value on aesthetics. Turning this building on the side parallel to the road would be a lot uglier than looking at the end of it. For aesthetics, pointing it with the gable end perpendicular to the road was a better view. Secondly he thought it had to do with optimizing the environment, aesthetics and values in life. He'd like to have a window looking at the lake without significantly modifying the building. Another value was neighborhood, good citizens and just getting along. No one was opposing this. The owners took care of the road, cleared it and took care of themselves. They weren't

troublemakers. He pointed to other approvals on a lot of things to accommodate the reality of what existed. Another factor was that this was something the owners wanted to do and he thought some weight should be given to that. They could add a condition requiring the building to be moved if the county said there was a conflict.

Wally said there wasn't an externality on this one. The purpose of zoning and setbacks and so forth was about the external impact. What you do shouldn't affect your neighbor. They hadn't found a significant external issue that said this shouldn't be done and they had to mitigate. They solved water, power and were solving septic. There weren't transportation/ingress/egress/parking issues. He greatly appreciated what Steve was saying. Steve's question was if the viability of agriculture was enough of a hardship to warrant a simple variance. He didn't know if turning the building changed the viability. That was [the owners'] call.

Jacob focused the group back to the discussion on a variance and a valid hardship. He didn't think anyone was against what the applicants wanted to do. They were supportive but they had a rule and process to which they were bound. The hardship, according to the book the civil deputy attorney recommended and directed staff to go by, was tied to characteristics of the land not circumstances of the person. The lots to which this was being compared were less than an acre rather than 14.8 acres, so it wasn't a fair comparison. The earlier comparisons to other variances weren't fair comparisons as those were totally different projects.

Don thought it was time to vote. Steve mentioned if the motion was to approve a variance, the findings of fact had to be rewritten. That was the place to start if they wanted to make a motion for approval.

Frank thought both sides of the argument had great merit. This was a borderline one. For him, the weight fell on the preferences of the owners and assigning aesthetic values and other values to what they wanted to do.

Frank offered changes to the italicized sections on pg. 12 and 13 to support approval:

- Item a, 4<sup>th</sup> line: Add 'difficult to attain based on long-established uses of the property' after 'appears to be', and eliminate the rest of the sentence.
- Item b: Replace existing item with, "A valid hardship exists that is tied to the long-established uses of the property and the present configuration."
- Item c (with Steve and Mary): Replace existing item with, "Based on established and dedicated land use unique to this property, this location and orientation of the building is the best option."
- Item d (with Mary): Add 'not' between 'has' and 'been' in the first sentence. Replace the 2<sup>nd</sup> sentence with, "All improvements and crops were well-established prior to their purchase and prior to zoning."
- Item e: Delete the 1<sup>st</sup> sentence. Add 'or reorient' after 'relocate'.
- Item g: Delete the last two sentences, which begin in the 5<sup>th</sup> line with 'However'.
- Item f.iii, 1<sup>st</sup> line: Add 'significantly' between 'encroach' and 'upon'.

Frank added a condition, pg. 14-15, with fine-tuning from Mary: 'The applicant shall relocate this structure if future county road improvements require such action.'



Steve asked about the applicants' request about [not waiving the right to protest] if the county wanted to improve the road. Frank understood that to be a standard condition which wasn't a big deal. Jacob noted this was condition #4. Steve pointed out the requirement for the health dept. approval was tied to the zoning conformance, not this. Lise clarified that she was referring to the requirement to get a new permit. Steve read condition #3, pg. 14. Lise thought it said she was required to get a new permit elsewhere in the document. Clint read the comment from Environmental Health. The [conditions of the] conditional use approval required approval from Environmental Health, which was in the conditions. Wally clarified that the waiver of right to protest involved protest of a special improvement district if they decided to improve the road through there. Lise could still comment to say she didn't want to do this but she would waive the right to be counted as a no vote on an RSID. [The waiver] would be only for this little piece of road. An RSID would include everyone who had the benefit of the road.

Steve explained when the Board approved variances to the rules, they had conditions that mitigated the impacts of going outside the rules. To justify or allow those impacts, sometimes you had to give. He gave examples.

Merle requested the chair to excuse him, as he has a critical appointment. Frank excused him, with thanks (roughly 5:58 pm). The vote was close so Merle opted to stay for the vote.

Jacob suggested revising the condition that Frank had added, by adding 'at the landowner's expense' not the county's expense. Frank agreed to add this, so it would read: "The applicant shall relocate this structure at their expense if future county road improvements require such action."

**Motion made by Frank Mutch, and seconded by Don Patterson, to approve the variance subject to the revised findings, conditions and terms. Motion carried, 4 in favor (Don Patterson, Frank Mutch, Merle Parise, Mary Jensen), and 1 opposed (Steve Rosso).**

Merle Parise exited. Frank noted that no public had been present to comment for the preceding item.

#### **JYSTAD VARIANCES—UPPER WEST SHORE (6 pm)**

Steve Rosso disclosed that he'd long known the Jystad family. He hadn't been in touch with them since before the house burned down. He didn't have other kinds of relationships that would create a conflict of interest.

Tiffani Murphy presented the staff report. (See attachments to minutes in the Sept. 2018 meeting file for staff report.) On pg. 1 in the 2<sup>nd</sup> paragraph of the property description and history, she corrected the reference from attachment 5 to attachment 4.

Don, pg. 12, item 17, 4<sup>th</sup> line: Change 'Once' to 'One'.

Tiffani didn't have the Shelter Bay Homeowners Association covenants. She spoke onsite with a member of the homeowners association. He had not provided comment.

Frank referred to comment from the designer on the roof pitch, which said it matched the previous roof pitch. Rob noted the designer, Lyndon Steinmetz, was here. Tiffani explained that they didn't have a permit on file for what was previously built. They had hearsay but not evidence. This was briefly discussed.

Agent Lyndon Steinmetz spoke about the application. He'd designed 10 or 12 homes in this area since 1993. He recalled this house from when it was under construction. The height was a 12/12 roof based on the width of the house and a 9-foot ceiling. He changed from a 12-inch to an 18-inch floor truss for a place to run the ductwork, so the height was 6 more inches to accommodate mechanicals in the floor versus dropping ceilings. He acknowledged they could drop the roof pitch. As someone who dealt in aesthetics, he'd done that before and there was definitely an aesthetic clash. You could comply with the maximum height of 30 feet by going from a 12/12 to a 10/12. They would prefer to replace what was there. This started with the crime of arson and attempted murder. He didn't want to see the applicant not get something that he had previously because he was the victim of a crime. He'd seen the setbacks change in the area.

Lyndon characterized the site as very rocky. They'd have to blast the entire foundation for the new house [if moved]. [The previous house] had only a partial basement. The lot came in and dropped down to where the basement was, in the middle of that lot. To move back uphill, he calculated they'd have to remove over 600 cubic yards of stone. They would be within about 10 feet of the existing garage to do that. The impacts [of this removal] to the lake and neighbors would create a much greater hardship, as well as to the homeowner if they were required to move back to the 50-foot line. He gave an example of an option other than blasting, such as a chisel on the front of a big excavator pounding the rock out, which tended to turn the neighbors ready to kill.

Lyndon thought they could comply with the height with relatively minimal adverse effects to the design. Moving the house uphill would be very difficult. There was little room in front of the existing garage for vehicles to back out. Frank responded to Lyndon that the Board members didn't have the site plan.

Lyndon clarified for Frank that the garage wasn't hidden, and answered Board questions. He showed a copy of the site plan and explained features and locations. He'd seen the floorplan of the original house. Comparing the plans, the basement floor was exactly the same. The 1<sup>st</sup> floor had the same footprint, with some rearrangements to open things up. They planned to use what bit of the foundation that they could. The SE and most of the north side could be salvaged. The fire was intense and hot in the SW corner below the living room. On the lake side of the footprint, the deck was the same location. He showed where he'd squared some corners, for ease. He showed also a cross-section and talked about it. This would not be a log building.

Regarding some fire damage to the garage/guest house, Lyndon recounted there was some damage to trees on the south side as well. The garage/guest house would be upgraded and repaired. Tiffani pointed to attachment 4, which showed the front deck on the guest house. Lyndon said [damage] was mostly scorching [for the garage/guesthouse]. They weren't going to change the 12/12 roof pitch on this. Steve observed that the guesthouse was log, so the two

buildings would have a different look anyway and the different roof pitches might not be as obvious. Lyndon added the buildings were also at 90 degrees to one another. The house had a lot of volume and the budget was limited so they'd save a little bit of cost with the lower roof pitch. He'd already talked to the representative about that and saw no problem doing that.

Lyndon hadn't once had a comment back from the homeowners committee in 30 years. He'd never seen a copy of the covenants. He noted the height limit he encountered most commonly elsewhere across the country was 35 feet. He described the way height was done on a sloping hillside lot was much more user-friendly in Lake County than across the [country] although he wished it was 35 feet. Jacob pointed out you could build over 40 feet doing it that way.

*Public comment opened:*

David Erickson was a resident of Shelter Bay and brother-in-law of the applicant. His understanding was the covenants addressed the 30-foot height, with that height limit.

*Public comment closed.*

Steve, Mary and Frank, pg. 16, condition 1, 3<sup>rd</sup> line: Add 'within the same footprint' after 'residence only'.

Steve and Mary checked that the deck was set back 30 feet. Lyndon said he would need to scale that. He would adjust the deck to make sure. He asked about requirements on materials that could be used within the setback. Tiffani specified that [the limits on materials were] within the 20-foot [lakeshore] setback.

**Motion made by Frank Mutch to approve the setback variance and deny the height variance (so limited to 30 feet) per the findings of fact, conclusions and conditions within the staff report.**

When the staff evaluated the stormwater plan and vegetative buffer, Steve felt that shrinking the buffer from 50 to 30 feet meant that the buffer had to be robust and the stormwater plan had to meet the requirements of being discharged outside of the 50-foot line and so forth. Jacob asked if that should be a condition of approval. Steve pointed to condition #4. Jacob thought that requiring the discharge be outside the 50-foot buffer zone was unique to the East Shore zoning district. Steve requested that staff add something to the condition to require this. In condition #5, he requested that the plan be evaluated to make sure it was an adequate buffer plan. Jacob highlighted that the challenge on this lot was that the whole buffer was bedrock. Steve and Lyndon referred to a native plant group in Whitefish, whose representative could look at this and say if there was any possibility.

Lyndon apologized for a mix-up that had occurred at a point when the parties involved in this project weren't on the same page. He was sure those calculations for stormwater management and so forth were in one of the applications. They would get the stormwater management and vegetation and so forth cleared up. Steve didn't know that they needed to change things in here [on that]. If they were going to build so close to the lake, they ought to do everything they could

make sure the buffer was as good as they could make it, even though it was limited because of the rock and soils and so forth.

**Seconded by Don Patterson. Motion carried, all in favor (Don Patterson, Frank Mutch, Steve Rosso, Mary Jensen).**

**MINUTES--DEFERRED**

**OTHER BUSINESS (6:33 pm)**

**Frank Mutch, chair, adjourned the meeting at 6:34 pm.**